

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

**PUBLIC MEETING ON ALTERNATIVES
TO THE HIGH SCHOOL EXIT EXAM**

COMMENTS BY

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Notice Published November 30, 2005

Comments Submitted December 8, 2005 for Meeting on December 15, 2005

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INTRODUCTION

These comments are submitted on behalf of Asian/Pacific Islander Youth Promoting Advocacy and Leadership, Californians for Justice, the Coalition for Educational Justice, Community Asset Development Redefining Education, Escuelas Si! Pintas No! Central Valley Youth Organizing for Equal Justice and Education (ESPINO), the Mexican American Legal Defense and Educational Fund, Parents for Unity, the United Teachers of Los Angeles, Youth in Focus, and Public Advocates, Inc. These organizations collectively represent thousands of students, parents and teachers both from and working in low-income communities and communities of color who are focused on improving the educational opportunities and outcomes in California's public schools. We work to ensure greater educational opportunity, equity and achievement in California by, among other efforts, seeking to ensure that *all* students have access to the resources necessary to meet California's rigorous content standards.

Like the Superintendent of Public Instruction, we want "every student in California to obtain a diploma" and "graduate from high school with the knowledge and skills necessary to truly compete." We submit the following comments to suggest alternative methods—in addition to the California high school exit exam ("CAHSEE")—by which students may demonstrate their ability to meet rigorous state standards and receive a diploma that reflects this accomplishment.

I. LARGE NUMBERS OF STUDENTS—PARTICULARLY LOW-INCOME STUDENTS OF COLOR—WILL NOT GRADUATE FROM HIGH SCHOOL UNLESS THE STATE WORKS QUICKLY TO DEVELOP AND IMPLEMENT ALTERNATIVES TO THE CAHSEE.

The State's own independent evaluator, HumRRO, reported that nearly 100,000 students in the Class of 2006—22% of the graduating class—have been unable to pass the CAHSEE and will be denied a high school diploma if they cannot pass the exam this year, even if they have passed all of their classes.¹

Of great concern is the disproportionate impact of the exit exam requirement on students of color, English learners, and students with disabilities, all of who are far more likely not to have passed the CAHSEE. Almost half of English learners (49%), nearly two-thirds of special education students (65%), 37% of African-American students, 32% of Latino students, and 34% of low-income students have not passed the CAHSEE, in comparison to just 10% of White students and 11% of Asian students.²

¹ *Independent Evaluation of the California High School Exit Examination: 2005 Evaluation Report*, Human Resources Research Organization (Sept. 30, 2005) at ix, available at <http://www.cde.ca.gov/ta/tg/hs/year6indepeval.asp> (hereinafter "The HumRRO Report"). See also John Rogers, Jennifer Jellison Holme, and David Silver, *More Questions Than Answers: CAHSEE Results, Opportunity to Learn, & the Class of 2006*, UCLA Institute for Democracy, Education, and Access (August 23, 2005), available at <http://www.idea.gseis.ucla.edu/resources/exitexam/index.html> (finding similar results).

² HumRRO Report at 85.

The consequences of being denied a high school diploma are severe. Students without diplomas are 75% more likely to be unemployed and are estimated to have 30% lower lifetime earnings than students with diplomas.³ Research indicates that the 66,657 students that the State reported as dropouts from its public schools in 2002–2003 will cost \$14 billion in lost wages.⁴ In addition, the costs to the State of high numbers of dropouts in terms of higher crime, incarceration rates, and increased dependence on public health and welfare are significant.⁵ Sixty-eight percent of all state prison inmates have not graduated from high school; conversely, graduating from high school lowers the probability of incarceration by 0.76% for Caucasians and 3.4% for African-Americans.⁶

The imposition of the CAHSEE requirement on the Class of 2006 and beyond is a civil rights issue that will have a palpable impact on California for years to come. Accordingly, the State must follow its legal and statutory obligations, as well as HumRRO's recommendations, to work quickly to develop and implement alternatives to the CAHSEE.

II. SECTION 60856 REQUIRES THE STATE TO STUDY ALTERNATIVES FOR ALL STUDENTS.

California Education Code section 60856—part of the statutory scheme authorizing the development of the CAHSEE—requires the State to study alternatives to the CAHSEE for all students. Section 60856 provides:

After adoption and the initial administrations of the high school exit examination, the State Board of Education, in consultation with the Superintendent of Public Instruction, *shall study the appropriateness of other criteria by which high school pupils* who are regarded as highly proficient but unable to pass the high school exit examination *may demonstrate their competency and receive a high school diploma*. This criteria shall include, but is not limited to, an exemplary academic record as evidenced by transcripts and alternative tests of equal rigor in the academic areas covered by the high school exit examination. If the State Board of Education determines that other criteria are appropriate and do not undermine the intent of this chapter that all high school graduates demonstrate satisfactory

³ Rogers, Holme & Silver at 1.

⁴ Dan Losen and Johanna Wald, *Confronting the Graduation Rate Crisis in California (Executive Summary)*, Harvard Civil Rights Project (March 2005) at 10–11, available at <http://www.civilrightsproject.harvard.edu/research/dropouts/March%202003%20California%20Final%20Report.pdf> (citing the research of Professor Russell Rumberger of the University of California at Santa Barbara).

⁵ *Id.*

⁶ *Id.*

academic proficiency, the board shall forward its recommendations to the Legislature for enactment. *Cal. Educ. Code § 60856* (emphasis added).

Section 60856 makes clear that the Legislature has determined there may well be alternative ways for students to demonstrate the same skills and content knowledge tested on the exit exam other than through the CAHSEE and directs the State Board to study this issue. As we are far beyond the exit exam's "initial administrations," the Board's obligation to review appropriate alternatives is long overdue.

Section 60856 sets forth the standard for determining whether alternatives to the CAHSEE satisfy the intent of the exam legislation, *i.e.*, whether the alternatives ensure that "all high school graduates demonstrate *satisfactory* academic proficiency" *Id.* (emphasis added); *see also* SB 2x, Sec. 1 (1999) (intent of legislation is to "ensure that pupils who graduate from high school can demonstrate *grade level competency*") (emphasis added). Moreover, section 60856 states specifically that impacted students "may demonstrate their *competency* and receive a high school diploma" through transcripts and *alternative tests of equal rigor* in the academic areas covered by the high school exit exam." *Id.* (emphasis added). Thus, the plain language of section 60856 provides that alternatives to the CAHSEE be equivalent mechanisms by which students can show their ability to meet the CAHSEE standards of "satisfactory academic proficiency" and "competency" to graduate high school. *Id.*

The term "highly proficient" is used in this section to describe those pupils with "satisfactory academic proficiency" and "competency" on state content standards that are, nevertheless, unable to pass the CAHSEE. "Highly proficient" neither modifies nor relates to the alternative assessments. Instead, it only relates to how such otherwise competent students may be "regarded" by their teachers. The term does not suggest a standard for these assessments that is higher than the CAHSEE standard.

Indeed, the imposition of a standard greater than that of the CAHSEE for a select sub-population of students would have a significant impact on the fundamental right to education and would violate the state Constitutional right to equal protection unless the State could demonstrate a compelling reason for imposing a different standard on those students unable to pass the CAHSEE. *See Butt v. State*, 4 Cal.4th 668, 685-86 (1992) ("[B]oth federal and California decisions make clear that heightened scrutiny applies to State-maintained discrimination whenever the disfavored class is suspect *or* the disparate treatment has a real and appreciable impact on a fundamental right or interest. . . [E]ducation is such a fundamental interest for purposes of equal protection analysis under the California Constitution"). It is unlikely that the State would be able to show a compelling reason for requiring students pursuing alternative assessments to the CAHSEE to demonstrate a higher level of proficiency on the state content standards. The underlying purpose of the CAHSEE is to "ensure that pupils who graduate from high school can demonstrate *grade level competency*" (SB 2, Sec. 1 (1999) (emphasis added)) not something beyond the content standards. If the State were to require greater proficiency on alternative assessments, it would suggest that the CAHSEE is an inaccurate or insufficient measure of student competence.

In sum, section 60856 was intended to explore alternatives to the CAHSEE for *all* students to demonstrate their “competency” and readiness to receive a high school diploma through “satisfactory” achievement of state standards.

III. DUE TO THE STATE’S OWN DELAY IN STUDYING ALTERNATIVES TO THE CAHSEE AND THE INADEQUATE TIME TO DEVELOP ALTERNATIVES IN TIME FOR THE CLASS OF 2006, THE CLASS OF 2006 SHOULD NOT BE SUBJECT TO DIPLOMA DENIAL FOR FAILURE TO PASS THE EXIT EXAM.

Due to the State’s neglect of its longstanding duty to study alternatives to the exit exam, as well as the Governor’s veto of AB 1531 (Bass), we are concerned that there is not adequate time to develop and implement for the Class of 2006 effective and robust alternatives, particularly the more involved options discussed below in section five of these comments.⁷

As discussed above, section 60856 of the California Education Code provides that:

After. . . *initial administrations* of the high school exit examination, the State Board of Education, in consultation with the Superintendent of Public Instruction, *shall* study the appropriateness of other criteria by which high school pupils who are regarded as highly proficient but unable to pass the high school exit examination may demonstrate their competency and receive a high school diploma.

Cal. Educ. Code § 60856 (emphasis added). We are now well beyond the exam’s “initial administrations,” as the State has administered the exam eighteen times since the spring of 2001 and will administer it at least 5 times to 10th – 12th graders during the 2005-2006 school year. Nonetheless, before now— with only six months remaining until thousands of students in the class of 2006 become the first to be denied diplomas—the State Board and the Superintendent have ignored their legal duty to study alternatives to the CAHSEE requirement.

We support the steps now being taken to study alternatives to the CAHSEE and welcome the opportunity to comment; however, the Superintendent has given very little notice and opportunity for us and others to propose alternatives and for the State to fully consider these alternatives and/or other options. For the Class of 2006, there has been inadequate time to investigate and study alternatives, including their validity, reliability

⁷ The State’s failure to study alternatives to the exit exam is even more distressing given the recommendations made by the SB 964 Panel (convened to assess options for alternatives to the CAHSEE for students with disabilities) in April 2005 that “a focused research agenda should be implemented, in particular around those alternative formats believed to have the most promise (e.g. Performance Appeals, Collections of Evidence).” Stanley N. Rabinowitz et al., *Senate Bill 964 Final Report* (April 25, 2005), at vii. Had the State followed this recommendation and begun a serious study of alternatives last May, the State would have had a greater opportunity to implement alternatives in time for all students, including students with disabilities, in the Class of 2006.

and lack of bias. Accordingly, the Class of 2006 should not be subject to diploma denial based on their inability to pass the CAHSEE. Rather, the State should spend the next several months studying alternatives to the CAHSEE and fulfilling the legal obligation it has been under at least since 2001. *See Cal. Educ. Code* § 60856; *see also Independent Evaluation of the California High School Exit Examination: 2005 Evaluation Report*, Human Resources Research Organization (Sept. 30, 2005) at 243-245 (recommending that the State study alternatives to the CAHSEE).

IV. SECTION 60856 DIRECTS THE STATE BOARD AND THE SUPERINTENDENT TO STUDY THE USE OF TRANSCRIPTS AND ALTERNATIVE TESTS AS POSSIBLE ALTERNATIVES TO THE CAHSEE.

Section 60856 includes a specific directive that the alternatives to be studied by the State Board of Education and Superintendent of Public Instruction “shall include, but is [sic] not limited to, an exemplary academic record as evidenced by transcripts and alternative tests of equal rigor.” *Cal. Educ. Code* § 60856.

The Senate Committee Report (April 5, 1999) provides additional guidance about what the Legislature had in mind when it directed the State Board and the Superintendent to study these alternatives to the CAHSEE. First, the legislative history recommends that one possible alternative to be explored is a “compensatory model” of testing:

It may be more realistic to set a range of qualifying scores so that performance on other measures (such as grades) might compensate for poor test performance, or the reverse. Such a “compensatory model” is used by the University of California and the California State University for admissions. In these instances, a high test score on the SAT or ACT tests may be used to compensate for a lower grade point average (GPA). Conversely, a high GPA can compensate for a lower test score.

Indiana currently uses such a compensatory model to determine whether or not a student has mastered the content and skills required to graduate from high school. In Indiana, students can receive a high school diploma by fulfilling one of three options: 1) attaining a passing score on the exit exam, 2) completing state core course requirements with a grade of C or higher, or 3) completing local course requirements with a GPA of C or better, meeting an attendance target, and receiving recommendations from teachers.⁸

The legislative history of section 60856 also recommends that the use of end-of-course exams be explored as a possible alternative to the CAHSEE. *See Senate Committee Report for SB 2x* (April 5, 1999).

⁸ Linda Darling Hammond et al., *Multiple Measures Approaches to High School Graduation*, Stanford School Redesign Network (2005), at 4, *available at* http://www.schoolredesign.net/srn/mm/pdf/multiple_measures.pdf.

While section 60856 explicitly directs the State Board and the Superintendent to study the use of transcripts and other tests as possible alternatives to the CAHSEE, the statute does not limit the Board and the Superintendent in their ability to study additional alternatives. *Cal. Educ. Code* § 60856 (“This criteria shall include, *but is* [sic] *not limited to...*”) (emphasis added). AB 1531 (Bass), as well as the HumRRO Report, provide the Board and the Superintendent with numerous other possible alternatives to the CAHSEE that should also be explored.

V. OTHER SUGGESTED ALTERNATIVES TO THE CAHSEE

In addition to transcripts and alternative tests, other alternatives to the CAHSEE that the State might explore are: local or state performance assessments of the kind described in AB 1531, a senior year portfolio, summer school courses after 12th grade, a community college program, and additional years in high school. These latter alternatives were all recommended in the HumRRO Report. For the reasons described below, we strongly support the development of performance assessments and/or a senior-year portfolio as alternatives to the CAHSEE. We also support summer courses after or during 12th grade, provided that such courses are adequately funded by the State and that quality-control mechanisms are put into place.

A community college program and additional years of high school are fall-back alternatives of which only a limited number of students can and will take advantage. For this reason, these options should only be considered in conjunction with one or more of the other alternatives discussed above.

Finally, the HumRRO Report suggested an alternate, lesser diploma for students who have been unable to pass the CAHSEE. This alternative fails to provide students with a means to demonstrate their ability to meet rigorous state content standards and will unacceptably impose a “second-class citizenship” status on recipients. This HumRRO recommendation should be rejected.

1. Performance Assessments Developed By Districts or the State and Approved by the Superintendent

This September, the Legislature passed AB 1531 (Bass), a bill to allow local school districts to develop alternative performance assessments—in addition to the CAHSEE—through which students could demonstrate their ability to meet the state standards. AB 1531 would have required that alternative performance assessments be aligned to state content standards, reflect a level of academic rigor at least equal to the CAHSEE, and be approved by the Superintendent of Public Instruction.

Although AB 1531 was vetoed by the Governor, it represents an alternative to the CAHSEE worth serious consideration. Not only did it receive support from the

Legislature, but it is consistent with the 2005 HumRRO Report released September 30th.⁹ The HumRRO Report suggested a senior-year portfolio, developed and implemented by districts, as one possible alternative to the CAHSEE requirement. A senior-year portfolio is just one of many types of alternative performance assessments that districts might develop under a proposal similar to AB 1531. As a variation on AB 1531, the State could develop a standardized portfolio or performance assessment aligned to the standards tested by the CAHSEE, administered and scored by districts in accord with standardized scoring rubrics.

A recent Stanford University study outlines numerous alternative performance assessments that are currently used in other states either in conjunction with, or as an alternative to, a high school exit exam. In order to graduate from high school in Oregon, students must complete work samples in English, math, science, and social science that are evaluated using a state scoring guide tied to state standards; students must also build a collection of evidence to demonstrate extended application of their knowledge.¹⁰ In New Jersey, students who do not pass the exit exam enroll in the Special Review Assessment, in which students receive a score report detailing their specific area(s) of weakness, complete remedial coursework in those areas, and then demonstrate their knowledge of content through completion of smaller, more focused performance assessment tasks developed by the state but administered and scored locally.¹¹ In order to graduate from high school in Pennsylvania, students must complete a culminating project, in addition to coursework and local assessments aligned with academic standards. Students demonstrate proficiency in reading, writing, and math through either a state standardized test or a local standards-based assessment.¹² Connecticut, Rhode Island, and Maine also use local performance assessments in determining whether or not a student has met the standards necessary to graduate from high school.¹³ Performance assessments such as

⁹ *Independent Evaluation of the California High School Exit Examination: 2005 Evaluation Report*, Human Resources Research Organization (Sept. 30, 2005), at 243-45, available at <http://www.cde.ca.gov/ta/tg/hs/year6indepeval.asp> (“The HumRRO Report”).

¹⁰ Darling Hammond at 28-30. For more information about Oregon’s Work Sampling System, see Oregon Department of Education: Performance Standards for All Subjects and Grades, available at <http://www.ode.state.or.us/teachlearn/subjects/elarts/performance/asmtperformancedts0506.pdf>; see also Work Samples: Frequently Asked Questions, available at http://www.ode.state.or.us/teachlearn/testing/scoring/revisedworksamplfaq_03312005.pdf.

¹¹ Darling Hammond at 18-20. For more information about New Jersey’s Special Review Assessment, see New Jersey Department of Education: High School Statewide Assessment, available at <http://www.state.nj.us/njded/assessment/hs/index.shtml#sra>; see also Special Review Assessment, available at <http://www.state.nj.us/njded/assessment/hs/sra2/>.

¹² *Id.* at 27-28.

¹³ *Id.* at 4, 24-27. In Connecticut, local districts use the high school exam in combination with local performance assessments and coursework to make graduation decisions. In Rhode Island and Maine, districts will combine the results of local performance assessments with state exam results to determine whether a student has met the requirements to graduate. Maine’s local assessments can include classroom-based portfolios, observations and exhibitions, as well as district-administered exams and tasks. In Rhode

these can be constructed both to measure the same content tested by the CAHSEE and to be of equal rigor.

In short, there is no shortage of feasible models from other states to which California and individual districts might look in developing state or local standards-based performance assessments as alternatives to the CAHSEE.

2. Senior-Year Portfolio

As discussed above, the HumRRO Report suggested that districts be allowed “to develop and implement a senior-year portfolio project for students they believe have mastered the required skills but are unable to demonstrate this mastery on the CAHSEE during the 10th and 11th grade.”¹⁴

A portfolio is a performance-based assessment which relies on samples of a student’s work—or “best pieces”—to demonstrate mastery of the content standards. When done well, portfolios can be a meaningful, “real world” assessment for both students and teachers. Portfolios can be used to assess a far wider range of skills and content than can be done through a standardized test; they can involve parents, community groups, and business leaders in determining whether or not a student has met standards; they provide students with the opportunity to take pride in their work; and they allow teachers more explicitly to link instruction to standards and assessment.

The development of portfolios and performance assessments as alternatives to the CAHSEE may suffer from hurried implementation this year and may need to be considered as an alternative for 2007.¹⁵ However, these alternatives are among the most promising for providing students with a meaningful way to demonstrate their readiness to graduate from high school. Like performance assessments, many states, districts, and individual schools already use portfolios as a form of assessment. For example, Vermont has been using portfolios to assess students’ skills in math and writing since 1991–92.¹⁶ In Maine, students who have been unable to pass the state standardized test can instead

Island, local portfolios and performance assessment tasks are being developed by districts and intermediaries with state assistance.

¹⁴ HumRRO Report at 245-46. The use of portfolios, or “collections of evidence,” was also explored by the SB 964 Panel, which found that they were among the alternative assessment formats with “the most potential promise.” See Stanley N. Rabinowitz et al., *Senate Bill 964 Final Report* (April 25, 2005), at vii.

¹⁵ Indeed, the SB 964 Panel noted some of the technical and logistical tasks that would need to be addressed, including “standardized data collection, training, and expectations across the state, ensuring objectivity through external monitoring, and setting the passing standard or cut score.” *Id.* at 54.

¹⁶ Darling Hammond at 96-97. See Vermont Department of Education: Assessment available at http://www.state.vt.us/educ/new/html/pgm_assessment.html; see also Koretz et al., *The Vermont Portfolio Assessment Program: Interim Report on Implementation and Impact, 1991-92 School Year*, The RAND Corporation (1992), available at <http://www.cse.ucla.edu/Reports/TECH350.PDF>.

demonstrate their knowledge of state standards through the Personalized Alternative Assessment Portfolio, which is being fully implemented this school year.¹⁷

Since at least 2001, the State Board and the Superintendent have been under a legal duty to study alternatives to the CAHSEE. Given the promise of portfolios and performance assessments as alternatives to the CAHSEE, the time is long overdue for the Board and the Superintendent to study these assessments as appropriate alternatives to the CAHSEE.

3. Summer Courses After 12th Grade¹⁸

The HumRRO Report recommended that districts be “allow[ed] and encourage[ed] to develop a summer program for students who have not been able to pass the CAHSEE and grant diplomas to students who successfully complete this program. Separate ELA and math courses could be offered, with students required to take or pass courses only if they had not yet passed the corresponding test on the CAHSEE.”¹⁹ The SB 964 Panel made a similar recommendation that the State “use successful student completion of coursework independently certified as equivalent to CAHSEE-level content as a substitute for passing all or part of CAHSEE.” Stanley N. Rabinowitz et al., *Senate Bill 964 Final Report* (April 25, 2005), at vii.

Summer school courses are a potentially viable alternative to the CAHSEE provided that the State adequately funds and supports such courses and that quality-control mechanisms are put into place. First, to be considered an appropriate alternative, summer courses must do more than offer students the same remedial CAHSEE-preparation courses that students have presumably been attending since they first failed the CAHSEE in the 10th grade. The vast majority of students who will take these summer courses are those who have been denied full access to educational resources and opportunities to learn throughout the entirety of their K-12 education. Summer school courses must, therefore, represent the very best California’s education system can offer to students in a two-month period of time. They must be aligned to state content standards; they must reflect the same level of academic rigor as the CAHSEE; and the most highly-qualified teachers in the district must teach the courses.

In order to satisfy these guidelines, the summer school program must provide financial incentives so that experienced, highly-qualified teachers will agree to teach

¹⁷ See Darling Hammond at 71-72; see also Maine’s Alternative Assessment System, available at <http://www.mecas.org/paap/>.

¹⁸ For the class of 2007 and beyond, the following discussion regarding a summer course option should also be read to encompass alternative CAHSEE-equivalent courses offered during the students’ senior year. However, given the short period of time for implementation, it may not be feasible to develop such a course in time to be offered this spring to students in the class of 2006. Also, in the future, such courses could also be offered to students between their junior and senior years.

¹⁹ HumRRO Report at 245.

these courses. The program must have small class sizes and provide individual learning plans for students, so that instruction can target individual areas of weakness for students and result in significant academic growth in a short period of time. The curriculum for the summer courses must be carefully planned and aligned with state content standards, so that satisfactory completion of the summer course will indicate that a student has mastered the same content and skills tested by the CAHSEE. Districts must provide standards-aligned textbooks and other supplementary materials that cover the same ELA and mathematics content tested on the CAHSEE. Districts must provide transportation to students if the summer course is only offered at a limited number of high schools within the district. Finally, teachers of the summer courses must be provided with curriculum planning time prior to the start of instruction as well as common planning time after the start of instruction.

The summer school course option represents an acceptable alternative to the CAHSEE only if significant steps are taken to ensure that these courses will match the content and rigor of the CAHSEE itself and will provide students with the instruction and support necessary for them to succeed. We support this alternative, provided that it is adequately funded by the State and that the steps described above are taken.

We also are concerned that students who are able to satisfactorily complete the summer course program will nevertheless be denied the opportunity to participate in the graduation ceremony with their peers. We encourage the State and districts to explore options whereby students who commit to participate in the summer program may be permitted to walk in the June ceremony with their peers.

4. Community College Program

The HumRRO Report suggested that “community college programs that [currently] lead to a high school diploma be updated to focus on CAHSEE skills,” so that students who have been unable to pass the CAHSEE could receive a high school diploma through participation in a community college program.²⁰

This proposed alternative to the CAHSEE raises numerous concerns because it likely will serve only a small percentage of students and because of the major impact it will have on California’s under-resourced community college system. For these reasons, it should be considered only in concert with other alternatives and only if it is adequately funded.

California has over a thousand public high schools, but only approximately one hundred community colleges. By definition, community colleges are located further away from students’ homes, require a commute, and are *ten times less accessible than the local high school*. Travel to a community college, especially for students in rural areas, may present too great a hurdle for some students, and it is likely that many students

²⁰ HumRRO Report at 245.

would instead choose to forego ever receiving a high school diploma if attending community college programs were the only alternative to the CAHSEE.

Not only are community colleges less accessible to students, but they require students to make a transition to a new and unfamiliar educational environment. The HumRRO Report noted that “one advantage of [the community college alternative] is that it would provide students with instruction in a different setting, not just repeating instruction that did not work before.”²¹ However, the research in fact indicates the opposite: young people who enroll in community colleges with substantial remediation needs have trouble making the transition to college.²² Thus, many students who have been unable to pass the CAHSEE likely may not enroll in an alternative community college program because community college may be viewed as an unfamiliar, intimidating educational environment for them. Of those that do enroll, research indicates that many will have difficulty being successful.

Putting aside the effectiveness of a community college program as an alternative to the CAHSEE, asking community colleges to take on the role of preparing an additional 50,000-100,000 students a year to graduate from high school will place an enormous burden on California’s community college system and require an infusion of additional funding. Currently, only 7 community college campuses offer basic-skills classes leading to a high school diploma.²³ These classes must be free to students.²⁴ The State would need to create many additional programs and hire new faculty for there to be adequate spaces for the 50,000-100,000 students who will be unable to meet the CAHSEE requirement this year. Moreover, California’s community colleges have a mission that is already too broad. Not only must they prepare students for transfer to four-year universities as well as to the labor force, but they must also provide basic skills instruction, English as a second language classes, adult education classes, and support services that help students to succeed in all of these programs. Asking California’s community colleges to play a central role in educating high school students is a distraction from their already significant mission.

The CAHSEE was created to ensure that students who receive a high school diploma actually have acquired the content and skills necessary to compete successfully in the workforce. The CAHSEE is designed to hold both students and high schools accountable for meeting this standard. Involving community colleges in this equation blurs this system of accountability and goes against the original intent of the CAHSEE legislation. For this and the other reasons discussed above, alternatives for students who

²¹ *Id.*

²² See, e.g., Robert Wassmer et al., *A Quantitative Study of California Community College Transfer Rates: Policy Implications and a Future Research Agenda*, Institute for Higher Education Leadership and Policy (2003) at 14, available at <http://www.csus.edu/ihe/PDFs/02-03.pdf>.

²³ See Jim Sanders, *Loophole Offers Hope After Failed Exam*, SACRAMENTO BEE, Nov. 21, 2005.

²⁴ *Cal. Educ. Code* § 76380, § 78401.

have been unable to pass the CAHSEE should first be implemented in the high schools, not community colleges. Community college programs, as alternatives to the CAHSEE, are appropriate for—and have the capacity for—only a small number of students.

5. Additional Years of High School

The HumRRO Report suggested that students who have been unable to pass the CAHSEE be allowed to remain for an additional year or two of high school in order to demonstrate their readiness to graduate from high school at a later date.²⁵ While this might certainly be one alternative presented to students who choose to remain in school, it alone is an inadequate solution. Many students would probably choose to forego ever receiving a diploma rather than continue their education at a school where they had previously encountered little success and which is most likely heavily under-resourced. As HumRRO noted, this alternative would only be reasonable “if the opportunities provided go beyond the remedial programs to which the students already had access.”²⁶

VI. LESSER, ALTERNATE DIPLOMAS ARE AN UNACCEPTABLE ALTERNATIVE.

The HumRRO Report suggested that California might establish a lesser, statewide alternative diploma for students unable to pass one or both parts of the CAHSEE. Such an “alternative” is unacceptable for students who have not passed the CAHSEE. Rather than ensuring that “all students graduate from high school with the knowledge and skills necessary to truly compete,” an alternate, sub-par diploma would create a separate and unequal class of “graduates” who will be denied the opportunity to gain the knowledge and skills necessary to succeed. A non-standard diploma will likely be treated as inferior by employers and will significantly hinder students’ access to higher education. Developing an alternate diploma would let the State off the hook for educating students. The State must hold itself accountable and commit the resources necessary to ensure that *all* students leave high school with the knowledge and skills to compete in the world, while maintaining a comprehensive and fair assessment system that does not hold back students who have mastered CAHSEE standards.

VII. THE STATE MUST PROVIDE ALL STUDENTS WITH THE OPPORTUNITY TO LEARN WHAT IS TESTED ON THE CAHSEE (AND ANY EQUIVALENT ALTERNATIVE) BEFORE HOLDING STUDENTS ACCOUNTABLE.

Whether students are required to demonstrate their knowledge of state standards on the CAHSEE or another, equally-rigorous alternative assessment, one central principle remains clear. *Before the State can hold students accountable for meeting rigorous state standards and deny them a high school diploma if they cannot, the State must hold itself accountable for providing students with the opportunity to learn the content tested. See Debra P. v. Turlington, 644 F.2d 397, 401 (5th Cir. 1981) (“If the test covers material not*

²⁵ HumRRO Report at 245.

²⁶ *Id.*

taught the students, it is unfair and violates the Equal Protection and Due Process clauses of the United States Constitution”).

The HumRRO Report revealed that many students, and especially those who are failing the CAHSEE in high numbers, have been denied access to basic educational resources needed to prepare them for the CAHSEE. Many students, especially “at risk” students, are being taught by underprepared teachers. The HumRRO Report confirmed that teacher qualification is directly related to student performance on the CAHSEE, but found that at many schools at least 25% of the teachers are uncredentialed.²⁷ Over 1/2 of schools reported math teachers with emergency credentials, and 1/3 of schools reported English/Language Arts teachers with emergency credentials.²⁸

Many students, especially students of color, have not taken the academic courses necessary to prepare them for the CAHSEE, such as higher-level math courses. The CAHSEE tests students’ knowledge of mathematics content standards through the Algebra I level. The HumRRO Report found that students whose highest math course taken is Algebra I fail the math section of the test at a rate of 43%, while students who have taken a higher-level math course such as Geometry fail the math section at a rate of only 15%.²⁹ Unfortunately, while 63% of White students and 80% of Asian students have taken a math course beyond Algebra I, only 43% of Latinos, 48% of African-Americans, 37% of English Learners, and 19% of special education students have done so.³⁰ In addition, many students do not have access to textbooks that are aligned to the material which the CAHSEE tests. In the HumRRO Report, teachers and administrators reported that in over 1/3 of remedial courses, no textbook at all is used.³¹

Before holding students accountable for passing the CAHSEE (or an equally-rigorous alternative assessment) and sentencing those who fail to the bleak economic future that awaits those without high school diplomas, the State must provide all students with access to the resources necessary to master state standards. As a starting place, the State must develop a system of unique student identifiers, so that it can identify and track struggling students at the elementary and middle school level, and then provide them with necessary support and standards-aligned instruction early on. Providing supplemental, CAHSEE-remediation courses in the 11th and 12th grade is too late for students. The State has a duty to provide real, meaningful opportunities for all students to learn California’s standards, not just in high school at the eleventh hour when the State is facing the grim reality of students being denied diplomas, but throughout the students’ experience in California’s public school system.

Dated in San Francisco, California, on the 8th day of December 2005.

²⁷ HumRRO Report at 145.

²⁸ *Id.* at v.

²⁹ *Id.* at 78-80.

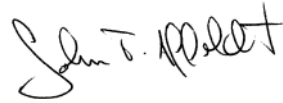
³⁰ *Id.*

³¹ *Id.* at 171.

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